

REMARKS

The Examiner has taken the position that the subject application contains two patentably distinct species and has identified the following:

I) Claims 1- 15 are drawn to a method of inducing residual compressive stresses in the surface of a part, classified in Class 29, subclass 90.01.

II) Claims 16 -20 are drawn to an apparatus for inducing a layer of compressive residual stress in the surface of a part, classified in Class 15.

The Examiner takes the position that Inventions I and II are related as process and apparatus for its practice. However, the inventions are distinct since the process as claimed can be practiced by another materially different apparatus or by hand and the apparatus claimed can be used to practice another materially different process.

In response to the requirement set forth in 35 U.S.C. 121, the Applicant provisionally elects the apparatus of Examiner's Invention I (Claims 1 – 15), without prejudice. The Applicant however, respectfully requests the Examiner to reconsider and withdraw this restriction requirement. The Applicant does not agree with the Examiner's position regarding the application having patentably distinct species of the claimed invention. The Applicant respectfully submits that the Examiner provides no basis for why any additional searches would be different or burdensome. As provided in MPEP 803:

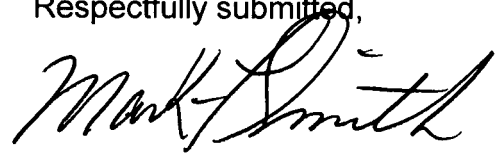
“If the search and examination of the entire application can be made without serious burden, the Examiner is encouraged to examine it on the merits, even though it includes claims to distinct or independent inventions.”

The Applicant believes that in conducting a search for manufacturing wall panels, a search directed to the product itself could be performed without undue burden.

Conclusion:

In view of the foregoing remarks, it is respectfully submitted that the Examiner's Inventions I and II and their corresponding claims be examined together.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark F. Smith". The signature is fluid and cursive, with the first name "Mark" and last name "Smith" clearly distinguishable.

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